

THE OFFICE OF REGULATORY STAFF
DIRECT TESTIMONY AND EXHIBITS
OF
BRENT L. SIRES



Docket No. 2007-228-G

Office of Regulatory Staff, Complainant/Petitioner
vs.
Quail Pointe Apartments, Defendant/Respondent

DIRECT TESTIMONY OF**BRENT L. SIRES****ON BEHALF OF****THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF****DOCKET NO. 2007-228-G**

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.

A. My name is Brent L. Sires. My business address is 1441 Main Street, Suite 300, Columbia, South Carolina 29201. I am employed by the State of South Carolina as a Senior Specialist in the Gas Department for the Office of Regulatory Staff ("ORS").

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I received a Bachelor of Science Degree, Marketing and Management, from the University of South Carolina in 1979. From 1980 to 2004, I was a member of the Utilities Department of the South Carolina Public Service Commission where I was an inspector in the Pipeline Safety Program 1980-1985 and participated in cases involving natural gas economic regulation 1985-2004. In January 2005, I began my employment with the ORS.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to present the views/opinions of ORS as they relate to natural gas service provided to the tenants of Quail Pointe Apartments.

Q. HOW HAS THIS MATTER BEEN BROUGHT TO THE ATTENTION OF ORS?

A. This matter was brought to the attention of ORS via a telephone call from Ms. Cherie Holsten, who is a resident of the Quail Pointe Apartments, to the Electric and Natural Gas Department. The nature of the call originated as an inquiry regarding allocating natural gas usage on a square footage basis and eventually materialized into ORS representatives investigating the billing practices for natural gas usage at Ms. Holsten's apartment.

Q. WHAT WERE THE FINDINGS OF ORS' INVESTIGATION?

A. On February 6, 2007, Chad Campbell of the ORS Consumer Services Division and myself visited the Quail Pointe Apartments. Our investigation identified the following:

- Ms. Holsten's apartment building consisting of eight apartments is served Natural Gas through one meter belonging to Piedmont Natural Gas Company. See Exhibit #1. Piedmont Natural Gas Company bills Quail Pointe Apartments not the individual tenants living in each apartment.
- The natural gas is piped into the individual apartments through a distribution system which appears to be the property of the Apartment Complex and appears to be individually metering natural gas usage for each natural gas appliance (excluding the cook stove) for each of the apartments in this complex.
- Ms. Holsten's apartment uses natural gas for space heating as well as a water heater and a gas stove/range. Exhibit #2 pictures the natural gas furnace and water heater and the apparent metering device.
- Quail Pointe Apartments or its designee is separately billing each of its tenants for natural gas.
- Ms. Holsten provided actual bills from a third party American Water representing the consumption of and billing for natural gas at her address Apartment #A-8, Quail Pointe Apartments, 460 East Blackstock Road, Spartanburg, South Carolina. Payments are made by Ms. Holsten and other residents directly to the Apartment complex on a monthly basis.
- Ms. Holsten is provided, billed, and pays for, natural gas service from an entity or entities which are acting as a natural gas utility but neither Quail Pointe

1 Apartments nor American Water are certificated by the South Carolina Public
2 Service Commission as a natural gas utility .

3 **Q. MR. SIRES, BASED ON YOUR INVESTIGATION IS MS. HOLSTEN BEING**
4 **BILLED FOR NATURAL GAS FROM AN ENTITY ACTING AS A NATURAL**
5 **GAS UTILITY?**

6 **A.** Yes. ORS has concluded that Quail Pointe Apartments is acting as a “public utility”
7 based on the information which we have collected during the course of our investigation
8 and in accordance with the provisions of S.C. Code Ann. §58-5-10(4).

9 **Q. WOULD YOU PLEASE EXPLAIN THE BASIS FOR THIS CONCLUSION?**

10 **A.** ORS’s position is that Quail Pointe Apartments has been acting as an unregulated public
11 utility on the basis of its delivering by pipe and billing for natural gas service to its
12 residents since November or December of 2001. During ORS’s investigation, we
13 learned that Quail Pointe Apartments is a retail customer of Piedmont Natural Gas
14 Company and does not hold a certification as a public utility from this Commission.
15 Further, sometime in late 2001 Quail Pointe Apartments installed individual meters of
16 some type in each of the apartments in this complex and began to separately bill each of
17 its tenants for natural gas. Although there have been some changes in third party billing
18 companies and billing procedures, as well as changes in the ownership and management
19 of the complex over the past five and a half years, Quail Pointe Apartments has
20 continually distributed natural gas by pipe to the tenants of its apartment complex (as
21 members of the “public or any portion thereof”) for compensation, thus meeting the
22 definition of “public utility” contained in South Carolina Code Annotated §58-5-10(4).
23 The tenants meet the definition of members of “the public or any portion thereof” under

1 S.C. Code Ann. §58-5-10(5) as they are persons to whom a commodity is delivered and
2 for which compensation is required.

3 **Q. ONCE ORS MADE ITS FINDING AND AFTER NOTIFYING QUAIL POINTE**
4 **APARTMENTS, WHAT STEPS HAS ORS TAKEN TO RESOLVE THIS**
5 **MATTER?**

6 **A.** ORS contacted Quail Pointe notifying it that it was acting as an uncertificated public
7 utility on February 12, 2007. Quail Pointe failed or refused to respond to ORS' letter and
8 has continued to bill the Tenants of the apartment complex for natural gas service and
9 usage. ORS filed the Petition initiating this case with the Commission on June 8, 2007
10 requesting the Commission to Order Quail Pointe Apartments to appear before the
11 Commission and show cause why Quail Pointe Apartments should not be regulated as a
12 Public Utility as defined under S. C. Code Ann. §58-5-10.

13 **Q. MR. SIRES WHY IS IT IMPORTANT THAT THE COMMISSION RULE THAT**
14 **QUAIL POINTE APARTMENTS IS A PUBLIC UTILITY?**

15 **A.** There are many reasons. First and foremost is the fact that if it is ruled to be a public
16 utility, the Apartments will be forced to either discontinue the sale of natural gas to its
17 residents or to meet the various statutory and regulatory requirements of a "public utility"
18 in South Carolina. As an unregulated public utility, Quail Pointe is currently not
19 complying with a wide variety of safety, billing, metering, notice and other requirements
20 which public utilities are required to comply with under the laws of this state and the
21 regulations and rules of the Public Service Commission. Over the past five and half years
22 Quail Pointe has been charging its tenants and customers for natural gas service at
23 unapproved and unregulated rates and charges at irregular intervals and has failed to

1 comply with safety requirements which this Commission, the ORS and the federal
2 government require of natural gas utilities.

3 Specifically, it appears that Quail Pointe is not in compliance with the Federal Safety
4 Standards for the transportation of gas and pipeline facilities as adopted by the State of
5 South Carolina under S. C. Code §58-5-970, the Customer Billing requirements set forth
6 in S.C. Code Ann. Regs. Regulation 103-439, the Customer Complaints regulations
7 contained in Regulation 103-445, the contracts and rate schedule rules and regulations in
8 Reg. 103-446 or the "Procedures for Termination of Service" contained in Reg. 103-452
9 and S.C. Code Ann. §58-5-1120.

10 **Q. MR. SIRES, HAVE YOU ADDRESSED ALL EXAMPLES OF THE RULES AND**
11 **REGULATIONS THAT APPLY TO NATURAL GAS SERVICE SUPPLIED BY**
12 **GAS SYSTEMS IN SOUTH CAROLINA?**

13 **A.** No. I have not. As this Commission is aware there are numerous Rules and Regulations
14 that apply to Gas Systems in South Carolina, I have only brought attention to a couple of
15 them. The point I want to emphasize is that the tenants of Quail Pointe Apartments are
16 not protected by any of the statutes, regulations or rules which protect the customers of
17 natural gas public utility companies in South Carolina which are regulated by this
18 Commission.

19 **Q. DOES ORS HAVE A POSITION AS TO HOW THIS MATTER SHOULD BE**
20 **RESOLVED?**

21 **A.** ORS requests that the Commission rule that Quail Pointe Apartments is operating as an
22 uncertificated public utility on the basis of its sale of natural gas to the residents of its
23 apartment complex. We further request that Quail Pointe Apartments be Ordered to

1 either make proper application to this Commission to be approved as a certificated public
2 utility or otherwise come into compliance with the laws of this State and Rules and
3 Regulations of the Public Service Commission by ceasing to perform activities and sales
4 of natural gas which qualify it as a “public utility” under South Carolina law within 30
5 days of the date of the Commission’s final Order in this matter.

6 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

7 **A. Yes, it does.**

EXHIBIT 1



EXHIBIT 2

